

APPLICANT(S): KILCOYNE, John T et al.  
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### **REMARKS**

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested. Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

### **Status of Claims**

Claims 50-60 are pending. Claims 50-60 have been rejected. Claim 50 has been amended. No new matter has been added.

### **The Telephone Interviews**

Initially, Applicants wish to thank the Examiner, Helen Nguyen, and the Supervisory Primary Examiner, Jeff Hoekstra, for granting and attending the telephone interviews, with Caleb Pollack, Reg. No. 37,912, Ohad Mayblum, and Andrew Cochran, on May 17, 2011 and again on May 18, 2011. In the interviews, claim 50 was discussed, as was Anggiansah et al., *Gut* 1994; 35: 1536-1542. During the May 18, 2011 interview, amendments to claim 50 were proposed and those amendments appear in this paper above. Agreement was reached that claim 50 substantially as it appears above (the wording was rearranged) is patentable over Anggiansah et al.

### **CLAIM REJECTIONS**

#### **35 U.S.C. § 102 Rejection**

In the Office Action, the Examiner rejected claims 50-51 and 58-60 under 35 U.S.C. §102(a), as being anticipated by Anggiansah et al., *Gut* 1994; 35: 1536-1542 ("Anggiansah"). Applicants respectfully traverse this rejection in view of the remarks that follow.

During the May 18, 2011 interview, agreement was reached that the claims substantially as currently amended are patentable over Anggiansah (Applicants maintain that claim 50, prior to the current amendment, is also patentable over Anggiansah.).

Claim 50, as amended, recites, *inter alia*, "... determines at least the presence of gastroesophageal reflux based on each of said plurality of signals received from said plurality of sensors." Anggiansah does not teach or suggest a device that determines the presence of gastroesophageal reflux "...based on each of said plurality of signals received from said plurality of sensors." Anggiansah bases its reflux determination on only one parameter, pH. Anggiansah define a reflux episode as starting when pH fell to less than 4 and ending when pH rose to 5 (see Anggiansah abstract). The pressure sensors taught in Anggiansah were not used to determine the presence of gastroesophageal reflux, but were used to classify types of esophageal activity.

In addition, claim 50 recites, *inter alia*, "... a housing adapted to be *implanted* in the body of a patient *by attachment to tissue inside the body*," (emphasis added). Anggiansah does not teach or suggest a device that can be "implanted in the body of a patient by attachment to tissue inside the body." Anggiansah utilizes a catheter which is passed transnasally into the stomach and secured to the patient's skin using tape. At no point is the catheter attached to tissue inside the body. It is instead attached outside the body.

Claim 50 recites, *inter alia*, "...said monitoring device comprising a housing ... and a plurality of sensors included in said housing." Anggiansah does not teach or suggest a device having a plurality of sensors included in a housing.

Accordingly, Applicants respectfully assert that amended claim 50 is allowable over Anggiansah. Each of claims 51 and 58-60 depends, directly or indirectly, from claim 50, and therefore includes all the limitations of that claim. Therefore, Applicants respectfully assert that claims 51 and 58-60 are likewise allowable. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claims 50-51 and 58-60 under 35 U.S.C. §102(a).

### 35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 52-55 under 35 U.S.C. §103(a) as being unpatentable over Anggiansah in further view of Brune (US Patent No. 5,984,875). The Examiner rejected claims 56-57 under 35 U.S.C. §103(a) as being unpatentable over Anggiansah in view of Brune and further in view of Kumar et al. (US Patent No. 6,416,471). Applicants respectfully traverse these rejections in view of the remarks that follow.

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Anggiansah has been discussed above in regard to amended claim 50 and that discussion is applicable here. Brune and Kumar et al. are also silent as to determining the presence of gastroesophageal reflux "... based on each of said plurality of signals received from said plurality of sensors" and cannot cure the deficiencies of Anggiansah.

Each of claims 52-55 and 56-57 depends, directly or indirectly, from claim 50, and therefore includes all the limitations of that claim. Therefore, Applicants respectfully assert that claims 52-55 and 56-57 are likewise allowable. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections of claims 52-55 and 56-57 under 35 U.S.C. §103(a).

### Conclusion

In view of the foregoing amendments and remarks, Applicants assert that the pending claims are allowable. Their favorable reconsideration and allowance is respectfully requested. Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

No fees are believed due in connection with this Amendment. However, if any fee is due, please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,



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